

REGULAR MEETING OF THE
OKLAHOMA WORKERS' COMPENSATION
COMMISSION

~ APPEALS ~

Friday September 20, 2019
9:00 a.m.
Commission Chambers
1915 N. Stiles Ave.
Oklahoma City, Oklahoma
www.wcc.ok.gov

MINUTES

Members present: Chairman Mark Liotta, Commissioner Jordan Russell and Commissioner Megan Tilly.

Staff present to support the Commission: Lindsey Christopher, Dana Esparza and Monica Pack.

STATEMENT OF OKLAHOMA OPEN MEETING LAW COMPLIANCE

Chairman Liotta stated the administrative meeting was being held in compliance with the Open Meetings Act.

CALL TO ORDER Presiding Appellate Officer, Chairman Liotta

Call to order 9:00 a.m. by Chairman Liotta, Presiding Appellate Officer.

ROLL CALL Presiding Appellate Officer, Chairman Liotta

After the roll call was taken, Chairman Liotta announced the presence of a Quorum.

A. MINUTES:

- The drafted Minutes of the Regular Appeal Meeting of August 23, 2019, were considered for approval.

Motion: Commissioner Tilly made a motion to approve the Regular Appeal Meeting of August 23, 2019, minutes.

Second: Commissioner Russell.

Those Voting Aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

THE MOTION CARRIED: MINUTES APPROVED

B. Appeal Hearings before the Commission En Banc from Orders Issued by the Commission's Administrative Law Judges

1. Glenda Childers v. Amity Care LLC (Own Risk #14907) & Grace Living Center, File #CM2015-07747X

Claimant filed an appeal from the order issued by Administrative Law Judge Lawyer. Pam Cornett represented the Claimant and Julie Thompson Weller represented the Respondent.

Motion: After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to take preliminary action to remand the Administrative Law Judge's order and instruct Appellate Counsel to draft a proposed order for consideration at a future meeting.

Second: Commissioner Russell.

Those Voting Aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER REMANDED

2. Djohn Brown v. Spring House Water Co., Inc. & CompSource Mutual Ins., Co. (FKA CompSource Oklahoma), File #CM2017-01710J

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Brad W. Wicker is the attorney of record for the Claimant and D. Wade Christensen is the attorney of record for the Respondent.

The parties to this case sent a joint email agreeing to continue this case prior to oral argument.

Motion: Commissioner Tilly moved to continue this case.

Second: Commissioner Russell

Those Voting Aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

THE MOTION CARRIED: CONTINUED

3. William D. French v. City of Tulsa (Own Risk #10435), File #CM2016-08454

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. J.L. Franks is the attorney of record for the Claimant and Cyrus Nathaniel Lawyer is the attorney of record for the Respondent.

Motion: After reviewing the record, the parties announcing to submit the case on the record, and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Russell.

Those Voting Aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

4. Sharon L. Aley v. TJX Co., Inc. & American Zurich Insurance Co., File #CM2018-01073X

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. Arthur H. Adams represented the Claimant and Clark P. Bushyhead represented the Respondent

Motion: After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Russell moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Tilly

Those Voting Aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

5. Billy Burson v. City of Tulsa (Own Risk #10435), File #CM2018-05632J

Claimant filed an appeal from the order issued by Administrative Law Judge McMillin. Darrel R. Paul represented the Claimant and Cyrus Nathaniel Lawyer represented the Respondent.

Motion: After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Russell.

Those Voting Aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

6. Gerald R. Asbill v. Allied Trucking Inc., (No Insurance), File #CM2018-07001Q

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Herbert E. Elias, Jr., represented the Claimant and James J. Robertson, Jr., represented the Respondent.

Motion: After reviewing the record, hearing oral argument of counsel and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Russell.

Those Voting Aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

THE MOTION CARRIED: TAKEN UNDER ADVISEMENT

7. Natasha Delrae Herndon v. Aldi Inc. & Travelers Indemnity Co. of America, File #CM2016-07668X

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Alexander Weaver represented the Claimant. Mia Ropps represented the Respondent.

Motion: After reviewing the record, the parties announcing to submit the case on the record and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Russell.

Those Voting Aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

8. Anthony Charles Kenney v. Tulsa Green County Staffing LLC & CompSource Mutual Ins., Co. (FKA CompSource Oklahoma), File #CM2015-07870J

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Anthony Charles Kenney did not appear. Blake I. Whitten represented the Respondent.

Motion: After reviewing the record, the Respondent's attorney announcing to submit the case on the record and deliberating, Commissioner Tilly moved to affirm the Administrative Law Judge's order and authorized the Commission's Presiding Appellate Officer to sign and file an order on behalf of the Commission.

Second: Commissioner Russell.

Those Voting Aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

THE MOTION CARRIED: ALJ ORDER AFFIRMED

C. Commission Consideration of Adoption of Final Orders in the Following Cases:

1. Julio Cesar (Perez) Gomez v. Encinos 3D Custom Products LLC and/or D. Trent Holman & Assoc. Inc., and CompSource Mutual Ins. Co. (FKA CompSource Oklahoma), File #CM2017-02108L

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Bryce A. Hill represented the Claimant. Doug Thomas represented Respondent Encinos 3D. Leah P. Keele represented Respondent D. Trent Holman & Associates. Dana L. Gish represented Respondent CompSource Mutual.

This case came on for Oral Argument on May 17, 2019. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

CONTINUED

2. Jayme Byassee v. 7 Eleven Stores Inc. & Great American Alliance Insurance Co., File #CM2017-07246Q

Respondent filed an appeal from the order issued by Administrative Law Judge Lawyer. Michael R. Green is the attorney of record for the Claimant and Heather A. Lehman Fagan is the attorney of record for the Respondent.

This case came on for Oral Argument on July 19, 2019. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Tilly moved to adopt this order as proposed.

Second: Commissioner Russell.

Those Voting Aye: Chairman Liotta, Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ADOPTED

3. Terry W. Garrett v. MITF, File #CM2015-04717JMIF

Claimant filed an appeal from the order issued by Administrative Law Judge Curtin. Micah Felton represented the Claimant and Heather Lehman Fagan represented the Respondent.

This case came on for Oral Argument on July 19, 2019. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

CONTINUED

4. Bennie E. Herring v. City of Tulsa (Own Risk #10435), File #CM2016-05263A

Claimant filed an appeal from the order issued by Administrative Law Judge Inhofe. JL Franks is the attorney of record for the Claimant and did not appear at the Oral Argument and Travis R. Colt represented the Respondent.

This case came on for Oral Argument on August 23, 2019. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Tilly moved to adopt the order as proposed.

Second: Commissioner Russell.

Those Voting Aye: Chairman Liotta, Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ORDER ADOPTED

5. In The Matter of the Death of Kevin Michael Minyen v. Safety Plus USA LLC & CompSource Mutual Insurance (FKA CompSource Oklahoma), File #CM2016-05634A

Respondent filed an appeal from the order issued by Administrative Law Judge Egan. D. Eliot Yaffe represented the Claimant and Michael Fagan represented the Respondent.

This case came on for Oral Argument on August 23, 2019. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

Motion: Commissioner Tilly moved to adopt the order as proposed.

Second: Commissioner Russell.

Those Voting Aye: Chairman Liotta, Commissioner Russell and Commissioner Tilly.

THE MOTION CARRIED: ORDER ADOPTED

6. Vickie Elaine Franks v. Little Dixie Community Action Agency & CompSource Mutual Insurance (FKA CompSource Oklahoma) File #CM2016-05896A

Claimant filed an appeal from the order issued by Administrative Law Judge Egan. Edward Grimes represented the Claimant and John S. Oldfield Jr., represented the Respondent.

This case came on for Oral Argument on August 23, 2019. After reviewing the record, hearing oral argument of counsel, and deliberating, the Commission took this case under advisement.

CONTINUED

Motion: Commissioner Tilly moved to continue the remaining orders to the next appellate docket.

Second: Commissioner Russell.

Those Voting Aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

THE MOTION CARRIED: REMAINING ORDERS CONTINUED

D. Announcements

Commission's next special business meeting is Thursday, October 9, 2019. Commission's next regular meeting regarding Appeals is scheduled for Friday, October 19, 2019.

ADJOURNMENT

Motion: Commissioner Tilly moved to adjourn the meeting at approximately 2:41 p.m.

Second: Commissioner Russell.

Those Voting Aye: Chairman Liotta, Commissioner Russell, and Commissioner Tilly.

THE MOTION CARRIED: THE MEETING WAS ADJOURNED.